

NOTICE

TO: Nursing Facility Administrators and Personal Needs Account Managers

FROM: Senior and Long Term Care Division and Quality Assurance Division
Montana Department of Health and Human Services

Date: April 25, 2007

THIS IS AN INFORMATIONAL NOTICE:

This notice is to provide you with information concerning Section 53-6-168, MCA. This State law requires the payment of certain funds to the Montana Medicaid program upon the death of nursing facility residents who were covered by Medicaid at any time. In general, the law requires the facility to pay any funds the facility is holding for those residents to the Department within 30 days of the individual's death. Each year the Medicaid program recovers nearly \$600,000 from remaining personal needs account funds of deceased recipients. This money is reinvested in the state program to help more individuals needing services. The law refers only to costs that would ordinarily and appropriately be paid from personal needs accounts and does not refer to any other funds.

If the resident owes the facility money, the facility is entitled to retain the portion they are owed and return the balance to the Department. As noted in Section 53-6-168, MCA, these personal needs account funds are not considered property of the person's estate, and therefore these funds may not be sent to the surviving family, or funeral home, instead they must be sent to the Department.

To make required refunds, we ask the facility to make the check payable to Montana Medicaid. Please include the following information on the check or on the attachment: resident's name, social security number and their date of death. Mail the check to our address:

DPHHS
TPL Unit
PO Box 202953
Helena, MT 59620-2953

The text of the law appears below. If you have any questions, please contact Helen Higgins at (406)444-4157 or the above address. Thank you for your assistance.

53-6-168. Payment of certain funds of deceased recipient to department. (1) (a) A nursing facility or a person, other than a financial institution, holding personal funds of a deceased nursing facility resident who received medicaid benefits at any time shall, within 30 days following the resident's death, pay those funds to the department.

(b) A nursing facility may satisfy a debt owed by the deceased resident to the facility from the deceased resident's personal funds that are held by the nursing facility and that would have been payable to the facility from the resident's funds. The facility shall pay the remaining funds to the department as required by this section.

(c) Funds paid to the department under this section are not considered to be property of the deceased resident's estate, and [53-6-167](#) does not apply to recovery of the funds by the department.

(2) For purposes of this section, a nursing facility is holding personal funds of a resident if the facility:

- (a) maintains possession of the funds in the facility; or
- (b) as the recipient's trustee or representative, has deposited the resident's funds in an individual or shared account in a financial institution.

(3) The department shall apply any funds received under this section proportionately to the federal and state shares of recoverable medical assistance and shall pay any remaining amount to a person entitled by law to the funds.